

REMARKS

Claims 1-27 and 30-32 are pending in the application. The Examiner has rejected claims 1-27 and 30-32 under 35 U.S.C. § 103(a) as unpatentable over combinations of references that include U.S. 4,120,948 ("Shelton I") and U.S. 5,984,553 ("Piscopo").

In describing Shelton I, the Examiner states that,

"Shelton [I] teaches a method for the manufacturing of an antiperspirant/deodorant product within a container, the method comprising delivering a first composition in fluid form to a mold container the mold container including a removable insert, allowing the first composition to at least partially solidify, delivering a second composition in fluid form to the space that was occupied by the insert." (9/10/2003 Office Action, p. 2, internal citations omitted).

The Examiner further notes that "[i]t is obvious in the process of Shelton [I] that the second delivered composition contacts the first composition after delivery." (9/10/2003 Office Action, p. 3).

While the first and second compositions may contact each other in Shelton I, patents filed after Shelton I (that, like Shelton I, are assigned to the Procter & Gamble Company) teach away from the method described in Shelton I. For example, U.S. 4,393,643 ("Fryar") is directed to a "process for forming a barrier phase between two incompatible phases". (Fryar, Abstract). The "preferred products of the [process described in Fryar] are cosmetic sticks such as antiperspirant sticks" (Fryar, col. 3, lines 1-2). In its Background section, Fryar teaches away from using methods like the method described in Shelton I:

"Combination of a conventional waxy antiperspirant composition with a soap/alcohol gel to form a two-phase stick composition . . . is . . . not made without certain difficulties. While each phase alone of such a stick composition is stable, contact between the two phases can cause destructive interaction between the two phases. The alcohol/gel phase experiences syneresis which is a bleeding or lea[k]ing of the gelled alcohol from the gel structure or matrix. Such leaked alcohol can interact with components of the waxy phase and can thus consume or physically separate the phases, thereby resulting in an unacceptable consumer product." (Fryar, col. 1, lines 41-54, emphasis added).

Fryar later explains that “[i]n view of the aforementioned problems, there is the need for improved processes for placing a barrier between two incompatible phases.” (Fryar, col. 2, lines 3-5).

U.S. 4,202,879 (“Shelton II”), which also is assigned to The Procter & Gamble Company, has the same inventor as Shelton I. Like Fryar, Shelton II discusses the “destructive interaction” that can occur between two phases in a two-phase stick composition, and the “unacceptable consumer product” that can result from such destructive interaction. (See Shelton II, col. 1, lines 55-68). Also like Fryar, Shelton II explains these problems can be addressed by providing a “third barrier phase” between the two phases of the composition. (See Shelton II, col. 2, lines 29-40).

Both Fryar and Shelton II, the applications for which were filed after the application for Shelton I, teach away from forming a two-phase antiperspirant stick using a method like that described in Shelton I. Thus, a person of ordinary skill in the art would not be motivated to combine the method of Shelton I with one or more other references to form a two-phase antiperspirant stick.

And even if a person of skill in the art were motivated to form an antiperspirant stick by using the teachings of Shelton I in combination with another reference, the other reference would not be Piscopo. Piscopo describes a method of forming a one-component antiperspirant stick in a container that also includes an elevator. (See Piscopo, col. 2, lines 30-67). The method involves using the elevator, which doubles as a “fill pipe”, to fill the container with the component. (See Piscopo, col. 2, lines 40-42 and 58-64). The elevator remains in the container even after the filling is completed, and serves as a means for the customer to advance the contents of the container. (See Piscopo, col. 2, lines 58-67; col. 3, lines 1-3).

Shelton I describes a method for forming a two-phase composition. (See Shelton I, col. 10, lines 1-68; col. 11, lines 1-21). The method includes inserting a removable insert into a container, filling the outside of the removable insert with one phase, removing the insert, and filling the space left by the insert with a second phase. (See Shelton I, col. 11, lines 10-21). A person of skill in the art would not be motivated to combine Shelton I with Piscopo because

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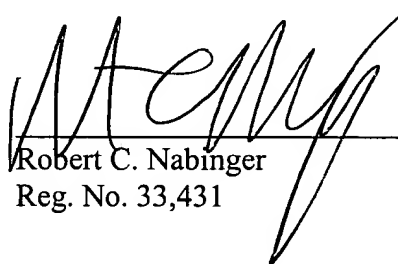
while Shelton I involves a removable insert, Piscopo involves an insert that remains in the container.

For at least the reasons described above, claims 1-27 and 30-32 are not rendered unpatentable by combinations that include Shelton I and Piscopo. Applicants therefore believe that the claims are in condition for allowance, which action is requested.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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